

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**Leonard B. Brown, Jr. (LBBJ),)
Leonard B. Brown, III (LBB3),)**

Plaintiffs,)

v.)

**Civil Action File No.:
1:11-CV-2448-AT**

**The City of Dunwoody (COD),)
Tom Lapenna (TL) and Tom)
Lapenna in his official capacity,)
Michael Nier (MN) and Michael)
Nier in his official capacity,)
Michael Tuller (MT) and Michael)
Tuller in his official capacity,)
Brian Anderson (BA) and Brian)
Anderson in his official capacity,)
C.R. Forman (CF) and C.R.)
Forman in his official capacity,)
T. Waldron (TW) and T. Waldron)
in his official capacity,)**

Defendants.)

**DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER TO
ADD AFFIRMATIVE DEFENSES**

COME NOW, defendants The City of Dunwoody, Tom Lapenna, Michael Nier, Michael Tuller, Brian Anderson, C.R. Forman, and T. Waldron (hereinafter, “the defendants”) and, pursuant to Federal Rules of Civil Procedure Rule 15, file

their motion for leave to amend their answer to add affirmative defenses and show this Court as follows:

1.

Pursuant to Federal Rule of Civil Procedure 15(a), leave to amend “shall be granted freely when justice so requires.

2.

On July 25, 2011, the plaintiffs filed their pro se Complaint for Declaratory and Injunctive Relief and Damages.

3.

The statement of jurisdiction and venue of the plaintiffs’ complaint alleging subject matter jurisdiction existed over the plaintiffs’ claims under “42 U.S.C. §§ 1981, 1983, 1985 and 1986.” Pls.’ Compl. ¶ 6 (July 25, 2011).

4.

The statement of jurisdiction and venue of the plaintiffs’ complaint alleging subject matter jurisdiction existed over the plaintiffs’ claims under “42 U.S.C. §§ 1981, 1983, 1985 and 1986.” Pls.’ Compl. ¶ 6 (July 25, 2011).

5.

The plaintiffs' complaint does not set forth facts alleging which municipal official, if any, failed to prevent the commission of wrongdoings to state a cause of action under 42 U.S.C. § 1986 or when the allegedly wrongful neglect or refusal to act occurred.

6.

In the event the plaintiffs' complaint is construed to set forth a cause of action under 42 U.S.C. § 1986, the defendants respectfully request to amend their answer, as exhibited in the proposed amended pleading attached hereto as Attachment "A", to assert the following affirmative defense:

SIXTH AFFIRMATIVE DEFENSE

The plaintiffs' claims are barred in whole or in part by the statute of limitations.

For these reasons, the defendants respectfully request that they be granted leave to amend their Answer to add the affirmative defense of the statute of limitations.

LOKEY, MOBLEY AND DOYLE, LLP

/s/ G. Melton Mobley

G. Melton Mobley

State Bar No. 514625

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CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of **Defendants' Motion for Leave to Amend Answer to Add Affirmative Defenses** using the CM/ECF system that will automatically send email notification of such filing to the following attorneys of record:

None

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Leonard B. Brown, III
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This 1st day of December, 2011.

LOKEY, MOBLEY AND DOYLE, LLP

/s/ G. Melton Mobley
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